

To: Ranger Chuck Oliver  
Darby Ranger District  
P.O. Box 388  
712 N. Main Street  
Darby, Montana 59829  
And,  
Forest Supervisor Barry Paulson  
Bitterroot National Forest  
1801 North 1st Street  
Hamilton, Montana 59840

**RECEIVED**

**JUL 17 2007**

**Ravalli County Commissioners**

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From: Lost Horse Canyon Coalition (LHCC)

Subject: Scoping comments on Proposed Lost Horse Quarry CE/DM (FS Notice Letter, dated 5/31/2007) and Ravalli County Road and Bridge Department Supervisor Dave Ohnstad's Lost Horse Mine Plan of Operations (dated April, 2007).

Date: July 17, 2007

Dear Ranger Oliver and Supervisor Paulson:

The Lost Horse Canyon Coalition (LHCC) herein provides substantive comments regarding Mr. Ohnstad's proposed Lost Horse Mine Plan of Operations (PO), and Ranger Oliver's Scoping Letter describing a proposed Categorical Exclusion (CE) to initiate industrial-level mining activity within the old Lost Horse Canyon Quarry area.

The Lost Horse Canyon Coalition is comprised of local residents and recreationists who extensively use the Canyon's area and who will be significantly and adversely affected by these proposed actions for at least one decade, and possibly two decades.

Mark and Susan Behrman and Carol Hansen are the LHCC contact persons. The Behrman's phone number is (406) 363-2834 and Carol Hanson's phone number is (406) 363-2526.

Ranger Oliver's Scoping Notice Letter does not specify whether an eventual FS Final Decision would be appealable, or whether litigation would be the only option left available to the concerned publics. Our comment letter is therefore written in a manner to hopefully cover either eventuality.

Ranger Oliver's letter stated that, "I am not aware of any extraordinary circumstances that might cause the action to have significant effects", (FS Notice Letter at p.2).

Ravalli County Road and Bridge Department Supervisor Ohnstad, in a Bitterroot Star article July 4, 2007, is quoted as saying, "If there are some meaningful questions or comments, we will address them. I haven't heard them yet."

The LHCC sincerely hopes that the concerns and comments outlined in this comment letter will perhaps change their minds.

The LHCC is very concerned that any statements of quantities of rock or other materials mined, acreages, mitigations, assurances, and basically any other claims made in the Plan of Operations or a FS assessment or decision may be essentially meaningless.

In a letter (2/20/2007) responding to specific questions from a citizen concerned about the FS's failure to comply with statements and or commitments made in a previous Environmental Assessment, Ranger Oliver stated: "Any decision made can be carried out in whole or in part depending on a myriad of factors. Some of these factors may lead us to drop or alter parts of the decision." His letter then lists some factors or scenarios; "changed conditions", "timing or mitigation", "funding", "new decision". He then goes on to say; "a decision notice is just that, notice of a decision that was made, not a commitment". We believe that the BNF Supervisor has made similar statements in a letter to Rep. Rehberg.

While it is reasonable for a project decision to be able to be modified due to unforeseen situations, there apparently are procedures under the NEPA/CEQ regulations that should be followed, including public notice, proposing an amendment to a decision, and/or issuing a new decision that is subject to the NEPA/CEQ's requirements.

There appears to be approximately five or more "decisions" (CEs, EAs, EISs) made by BNF rangers or supervisors in the last ten to fifteen years that were not fully complied with. In each case as far as we know, the concerned publics found out only by accident later - apparently no public notice or NEPA notification was issued where the public was informed about the specific changes by the BNF.

The FS's assertion that, "a decision notice is just that, notice of a decision that was made, not a commitment", raises significant questions in the public's minds about any facts or statements made in Forest Service written decisions, assessments, or in their supporting documents. Are they just for public consumption if they are not enforceable or meaningful commitments made by the agency?

NEPA requires that agencies "insure the professional integrity, including scientific integrity, of the discussions and analyses in environmental impact statements." (40 C.F.R. 1502.24).

The LHCC raises this concern because the County's Plan of Operations and the FS's Scoping Notice Letter are asserting that the proposed long-term mining and hauling actions are just "minor actions", which do not require a hard look at the potentially significant environmental consequences. We respectfully disagree with the County's and Forest Service's conclusion.

"An agency cannot ... avoid its statutory responsibilities under NEPA merely by asserting that an activity it wishes to pursue will have an insignificant effect on the environment." (Jones v. Gordon , 792 F.2d 821, 828 (9th Cir. 1986)) "NEPA ensures that important effects will not be overlooked or understated only to be discovered after resources have been committed or the die otherwise cast." (Robertson v. Methow Valley Citizens for Council , 490 U.S. 332, 342; 109 S.Ct. 1835, 1845 (1989)).

Under NEPA, the Forest Service, not the plaintiff, is responsible for investigating the environmental effects of a proposed action. (Thomas v. Peterson , 753 F.2d 754, 765 (9th Cir. 1985); City of Davis v. Coleman , 521 F.2d 661, 671 (9th Cir. 1975))

#### THE STATEMENT OF PURPOSE AND NEED IS INSUFFICIENT:

"The statement of reasons is 'crucial' to determining whether the agency took a 'hard look' at the potential environmental impact of a project. (See, The

Steamboaters v. FERC, 759 F.2d at 1393; Kleppe v. Sierra Club, 427 U.S. 390, 410, n.21 (1976)).

The FS Notice Letter (p.2), under "Purpose and Need" mentions only a "Mineral Material Contract" and a "Road Use Permit" that would be required, if the industrial mining project were allowed. This is totally inadequate, and fails to disclose any rationale and/or need for the proposed significant adverse action. It is also a violation of the NEPA/CEQs requirements, (40 CFR 1502.13).

The LHCC assumes the "Purpose" would likely be to mine materials for County and Forest Service road construction/reconstruction use. The complete lack of disclosure or discussion of the "Need" for the project is much more questionable (and difficult) - perhaps this is why it is totally ignored in Ranger Oliver's Notice Letter.

There apparently are gravel sources (road building materials) available in many private land gravel pits around Ravalli County. Likewise, there are probably many existing gravel pits on Forest Service public lands where materials could be mined that are not in ecologically critical and sensitive areas such as the Lost Horse Canyon. There are also probably many existing gravel pits on State or County lands throughout the Valley that are also likely available. The Notice Letter is completely silent as to these options. It raises a question whether the Forest Service would be using public lands to be in direct economic competition with many private commercial pit operators, (for example; Donaldson Brothers).

Additionally, we understand the Forest Service does not normally issue "special use permits" on public lands where there are such services or products readily available elsewhere. If the FS were to do so, we can imagine there would be a vast host of entities (private and public) lined up to gain an economic advantage through use of the public's lands at little or no environmental or economic costs to themselves.

Without a full and complete specific discussion and disclosure of the overwhelming "Need" to industrially mine common materials in the highly controversial and ecologically sensitive Lost Horse Canyon, the LHCC maintains the agency's proposed CE and actions cannot be allowed according to existing law.

#### THE COST AND BENEFIT NUMBERS ARE QUESTIONABLE:

The Ravalli County Road and Bridge Department's Supervisor Dave Ohnstad has publicly asserted that the costs of the proposed action are significantly less than if the mined material was obtained by the County elsewhere. Perhaps this was to influence public opinion.

The Ravalli Republic newspaper interviewed Mr. Ohnstad for a 6/25/2007 story. The article states that, "Gravel generally runs about \$14 per ton. County officials expect to pay \$2 to \$3 per ton for the Lost Horse gravel." The same figures were used in a Bitterroot Star newspaper article (July 4, 2007) in which Mr. Ohnstad was also interviewed. It states, "He said that he expects the cost to the County to run about \$2 to \$3 per ton compared to a regular cost of about \$14 per ton."

Similar to the claims in the PO that only "4.9 acres" would be disturbed overall, (discussed elsewhere more fully below), it appears the costs and

benefits numbers presented by Mr. Ohnstad are highly suspect and questionable, and perhaps are only intended to attempt to sway public opinion and/or the Federal Decisionmaker.

Nowhere in the County's Plan of Operations (PO) does it once assert a claim that there would be a very significant cost savings in mining the old Lost Horse Canyon quarry compared to obtaining the materials elsewhere. Perhaps this is because such a statement might not be accurate, or supportable in a scientific and/or legal document.

Members of the LHCC have been informed that the \$2/\$3 per ton figures used by Mr. Ohnstad may only be the costs of the crushing of the gravels on-site, and may not include the costs of transporting, processing, road construction or road maintenance and rehabilitation.

The Plan of Operations mentions that some "materials ... would be hauled off-site", (PO at p.14). It appears the least cost route is where road surfacing and building materials are mined and processed and then hauled directly to the site of intended use, (the final destination). If the materials mined and processed at the Lost Horse site are hauled elsewhere and stockpiled for future use, then the additional loading and hauling costs would need to be added as well.

If the alleged cost savings are not accurate, a cost/benefit analysis would disclose it, and help the FS and the concerned public determine if there is actually an over-riding "Need" for the Proposed Action. If there were no meaningful economic savings between choices of acquiring the road materials elsewhere, and mining them from the ecologically important and controversial Lost Horse Canyon site, it would demonstrate there is no compelling "Need" for the significant adverse impacts to occur.

If a cost-benefit analysis relevant to the choice among environmentally different alternatives is being considered for the proposed action, it shall be incorporated by reference or appended to the statement as an aid in evaluating the environmental consequences. (40 CFR 1502.23)

NEPA insures that an agency has before it "all possible approaches to a particular project ... which would alter the environmental impact and the cost benefit balance." (State of Alaska v. Andrus, 580 F.2d 465, 474 (D.C. Cir.), vacated in part sub nom, 439 U.S. 922 (1978)).

The economic rationale issue is not even mentioned in the Plan of Operations or the FS's Scoping Notice Letter. The LHCC maintains the Forest Service must include a cost/benefit analyses, full disclosure of the findings, and demonstrate the economic justification for the proposed project prior to any final agency decision document.

#### A CATEGORICAL EXCLUSION IS LEGALLY INSUFFICIENT:

The LHCC maintains that the Ravalli County Road and Bridge Department's submitted Plan of Operations (PO), dated April, 2007, and the Forest Service's proposed action do not comply with the NEPA/CEQ's or the FS's criteria for issuance of a Categorical Exclusion (CE).

For CEs, the NEPA/CEQ regulations provide that: "Categorical Exclusion" means a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect, (40 C.F.R. sec. 1507.3), and for which, therefore, neither an environmental assessment nor an environmental impact statement is required.

Any procedures under this section [1507.3] shall provide for extraordinary circumstances in which a normally excluded action may have a significant environmental effect. (40 C.F.R. sec. 1508.4)

Ranger Oliver's 5/31/07 Notice Letter (at p.2) states the CE exemption is applicable for this proposed mining project under the Forest Service Handbook (FSH) 1909.15; 31.2(3), [see also, 31.2(3)(g)].

The LHCC maintains that an unbiased review of the FS's cited text (see below) indicates otherwise. FSH 1909.15; Ch. 30:

(31.2) - Categories of Actions for Which a Project or Case File and Decision Memo Are Required:

Routine, proposed actions within any of the following categories may be excluded from documentation in an EIS or an EA; ....

As a minimum, the project or case file should include any records prepared, such as: ...

(2) the determination that no extraordinary circumstances exist; ...

Maintain a project or case file and prepare a decision memo for routine, proposed actions within any of the following categories.

(3). Approval, modification, or continuation of minor special uses of National Forest System lands that require less than five contiguous acres of land.

Examples include but are not limited to:

- a. Approving the construction of a meteorological sampling site.
- b. Approving the use of land for a one-time group event.
- c. Approving the construction of temporary facilities for filming of staged or natural events or studies of natural or cultural history.
- d. Approving the use of land for a 40-foot utility corridor that crosses one mile of a National Forest.
- e. Approving the installation of a driveway, mailbox, or other facilities incidental to use of a residence.
- f. Approving an additional telecommunication use at a site already used for such purposes.
- g. Approving the removal of mineral materials from an existing community pit or common-use area.
- h. Approving the continued use of land where such use has not changed since authorized and no change in the physical environment or facilities are proposed.

The LHCC notes that the above examples allowing CEs appear very benign and reasonable - this currently proposed mining/quarry action is anything but. It is not a "continuation of minor special uses" as referenced under 31.2(3)). First, the proposed mining action is not a "minor special use". The amounts of materials to be removed and the duration of operation are highly significant. If the amounts of material disclosed in the County Plan of Operation (PO) are removed (150,000 cubic yards), it could be the approximate equivalent of one football field covered to a depth of seventy-five feet. The PO states that "The ground surface elevation would be lowered approximately 100 feet in some locations by the mining operation", (PO, p.11). The cross-sections presented in the PO (pgs.13,14) indicate three areas where the existing surface will be mined to a depth of one hundred feet. This is not a "minor" action in any sense of the word.

Second, the old quarry has not been mined in over thirty years. The current proposed action is also not a "continuation" of use by any stretch of the imagination. It is a reopening of a long defunct quarry site, and is better described as a new use of an old site instead.

Third, the proposed action does not fit with 31.2(3)(g) either. The phrase "existing community pit" or "common-use area", indicates that the area in

question has been used somewhat recently or is in current use. Again, over thirty years has passed since it was last used, and it is not a "common-use area" either.

The proposed reopening of the Lost Horse Quarry site is a new industrial mining operation in a defunct site which has a high potential for long-term significant and adverse direct and indirect impacts stemming from the past, present, and reasonably foreseeable actions.

The FS's limitations on use of a CE are as follows:

FSH 1909.15; Ch. 30 - Categorical exclusion from documentation

30.3 - Policy.

(1). A proposed action may be categorically excluded from documentation in an environmental impact statement (EIS) or environmental assessment (EA) only if the proposed action:

b. ... there are no extraordinary circumstances related to the proposed action.

(2). Extraordinary circumstances include, but are not limited to, the presence of the following:

a. Steep slopes or highly erosive soils.

b. Threatened and endangered species or their critical habitat.

d. Congressionally designated areas, such as wilderness, wilderness study areas, or National Recreation Areas.

e. Inventoried roadless areas.

f. Research Natural Areas.

(3). Scoping is required on all proposed actions, including those that would appear to be categorically excluded. If scoping indicates that extraordinary circumstances are present and it is uncertain that the proposed action may have a significant effect on the environment, prepare an EA (ch. 40). If scoping indicates that the proposed action may have a significant environmental effect, prepare an EIS (ch. 20).

One could probably not find much 'steeper slopes', (30.3(2)(a)), than the rock cliff faces that are directly above and adjacent to the proposed quarry mining area. Part of the cliff face base area has already been significantly impacted, as evidenced by the extensive light colored rock area exposed, in the earlier mining operations thirty or more years ago that is still highly visibly obtrusive and non-conforming with the Forest Plan.

The proposed action will exceed the "five contiguous acres" limitation (31.2(3)), thereby prohibiting the use of a Categorical Exclusion.

"The total area of the proposed mine is approximately 4.9 acres". (Lost Horse Mine Plan of Operations, p.1) "The area of operations would be approximately 4.9 acres in size". (FS 5/31/07 Notice letter, p. 1)

Both of these documents (very carefully) qualify the affected acreage as "approximately" 4.9 acres, therefore the door is wide open that it might be more. This 4.9 acreage number is highly fluid, and questionable, and perhaps was arrived at just to be able to avoid preparation of a more in-depth (and costly) EA or EIS.

Once the operation is permitted, no one from the Road Department or the FS will likely be responsible for actually "measuring" the affected area to make certain the five-acre limitation is not exceeded. And, if it was found to be over five acres after the mining operation was permitted and ongoing, it is highly doubtful the actions would be halted to comply with the NEPA/CEQs after the fact.

Please remember: a Forest Service 'decision notice is ... not a commitment'.

The Plan of Operations cross-sections (p.13, 14) indicates very steep cut bank slopes will be created and it is probable that major sloughing will occur at various different sites, thereby also increasing the adversely affected acreage by the mining operations.

The Lost Horse Mine Plan of Operations, (p.1), discloses that the "Department may pursue a separate application for additional mining near the end of the ten year operation period proposed in this plan", and if so, "the reclamation plan ... may be modified and ... permanent reclamation actions may be delayed".

The LHCC notes that if the "reasonably foreseeable" additional ten year mining application then uses the same questionable acreages (4.9 ac.), it too would likely only require a CE - even though the total amount of significantly disturbed lands would then be at least 9.8 acres total, just using the Road Department's own self-serving figures. Cumulative impacts include "past, present, and reasonably foreseeable" effects. When one takes into account the quarry land area disturbed in the past, the CE's five acre limitation is again exceeded.

An agency's determination that a particular action falls within one of its categorical exclusions is reviewed under the arbitrary and capricious standard. (Bicycle Trails Council of Marin v. Babbitt, 82 F.3d 1445, 1456 (9th Cir. 1996)).

"NEPA ensures that important effects will not be overlooked or understated only to be discovered after resources have been committed or the die otherwise cast." (Robertson v. Methow Valley Citizens for Council, 490 U.S. 332, 342; 109 S.Ct. 1835, 1845 (1989)).

The LHCC maintains that a Categorical Exclusion cannot be legally used for this proposed mining action.

#### FOREST PLAN STANDARDS:

The proposed mining action will be in violation of the National Forest Management Act (NFMA) because it does not adequately comply with the 1987 Bitterroot Forest Plan Standards for Management Area 3c (MA3c).

Page III-31 of the Forest Plan under "Standards", states that for MA3c, "the visual quality objective is retention". The Plan's glossary (p. VI-44) defines the retention visual quality objective (VQO), - "Retention: human activities are not evident to the casual Forest visitor".

We understand that a previous Darby Ranger, Tom Wagner, took some preliminary steps towards looking at rehabilitating the old quarry site. It appears there was some consideration by the FS of whether the light-colored lower cliff face, exposed by the previous mining operations, could be colored in some way to reduce the existing visual impacts. It is likely this was to try to comply with the 1987 Forest Plan "retention" VQO Standard.

The proposed mining operations will now instead greatly increase the already existing adverse visual impacts.

The proposed action falls within a large ecologically important drainage, and the MA3c area is contiguous to Plan MA5, MA9 and MA6 areas. MA5 Standards include: "(1) manage for recreation activities ..."; "(5) The Lost Horse ... road will be maintained to provide recreation access."; "(1) The [VQO] is

retention." (Plan at p.III-39, 40). The MA9 VQO Standard is the same as the surrounding MAS [retention], (Plan at p.III-66). The Plan's MA9 descriptions specifically refers to the "Lost Horse Canyon", which includes proposed "Research Natural Areas", (RNAs), and "National Natural Landmarks", (NNLs), (Plan at p.III-64, 65).

Twenty years ago, the 1987 Bitterroot Forest Plan and managers recognized the very special resources and attributes of the Lost Horse Canyon and designed specific strategy and standards to protect its unique features.

Ecosystem management requires that the FS takes a hard look at the features of the "whole" of an area, and must avoid segmenting it's qualities to disregard otherwise obvious "Extraordinary Circumstances". While this proposed mining action does not take place in MA's 5, 6, and 9, it does not exist in vacuum by itself either. The proposed actions will certainly adversely impact the special and unique qualities of the Lost Horse Canyon represented by those Forest Plan MA designations.

The LHCC maintains the proposed long-term mining operations will not comply with the clear intent of the 1987 Forest Plan to protect the Lost Horse Canyon's special attributes and resources.

The Plan of Operations proposed action's quantity of removed material, the total disturbed area, and the ten year duration (or twenty years), of the activities will not comply with the 1987 Forest Plan's intent or its MA3c VQO Standard for "retention".

Full compliance with Forest Plan Standards is required by Federal Court decisions and by Washington Office Directives. Pursuant to the National Forest Management Act, the U.S. Forest Service is required to prepare land use plans, (16 U.S.C. 1604). These plans strictly govern the management of National Forest lands. "Resource plans and permits, contracts, and other instruments for the use and occupancy of National Forest System lands shall be consistent with the land management plans", (16 U.S.C. 1604(i)). "[T]he Forest Supervisor shall ensure that ... all outstanding and future permits, contracts, cooperative agreements, and other instruments ... are consistent with the [land management] plan." (36 C.F.R. S 219.10(e))

"There should be no doubt in anyone's mind about which takes precedence if there is a conflict between standards and guidelines and program outputs; we expect every project to be in full compliance with standards and guidelines set forth in Forest Plans." (Forest Service Chief Robertson letter to Regional Foresters, February 23, 1990)

"It should be clearly understood that compliance with forest plan standards and guidelines and protection of ecosystem sustainability takes priority over any conflicts between ... other planned activities." (Forest Service Chief Thomas letter to Regional Foresters, 6/13/94)

The standards and guidelines operate as parameters within which all future development must take place. If a development project cannot be maintained within those parameters, the safeguard mechanisms in the Plan will prevent such development from going forward. (Swan View Coalition v. Turner, 824 F. Supp. 935 (D. Mt. 1992)).

The Ninth Circuit Court has stated that all proposed Forest Service actions must be in full compliance with the controlling Forest Plan. (see generally; Neighbors of Cuddy Mtn. et al v. USFS, 137 F.3d 1372 (1998); FSF et al v.



Morrison, 153 F.3d 1059 (1998); and BMBP et al v. Blackwood, No. 98-35783; D.C. No. CV-98-98-AA (1998))

A CE cannot be used to significantly and adversely alter Forest Plan Standards. It would be a violation of the NFMA and the NEPA/CEQ requirements.

AN ENVIRONMENTAL IMPACT STATEMENT IS REQUIRED:

The Forest Service Handbook Section 1909.15, Chapter 30.3(3) requires that, "if scoping indicates that the proposed action may have a significant effect, prepare an EIS".

The National Environmental Policy Act, (42 U.S.C. 4321 et seq.), requires all federal agencies to undertake thorough and public review of the environmental consequences of proposed federal actions, including preparation of a detailed Environmental Impact Statement (EIS) for all major federal actions which may have a significant impact on the human environment. (42 U.S.C. 4332(2)(C); 40 C.F.R. 1502.5, 1508.3; Robertson v. Methow Valley Citizen's Council, 490 U.S. 332, 336, 109 S. Ct. 1835, 1839 (1989)).

The Ninth Circuit Court of Appeals has firmly stated that NEPA requires the preparation of an EIS if "substantial questions are raised whether a project...may cause significant degradation of some human environmental factor." (see Idaho Sporting Congress V. United States Forest Service, No. 97-35339 (9th Cir. 1998); Greenpeace Action V. Franklin, 14 F.3d 1324, 1332 (9th Cir. 1992); Sierra Club v. United States Forest Service, 843 F.2d 1190, 1193 (9th Cir. 1998)).

To trigger this requirement a 'plaintiff need not show that significant effects will in fact occur,' - raising "substantial questions whether a project may have a significant effect" is sufficient. (Id.) (see also, Save the Yaak Committee v. Block, 840 F.2d 714 (9th Cir. 1988); Foundation for North American Wild Sheep v. USDA, 681 F.2d 1172, 1178 (9th Cir. 1982)).

An agency's decision not to prepare an EIS is impermissible if the agency fails to "supply a convincing statement of reasons why potential effects are insignificant." (The Steamboaters v. FERC, 759 F.2d 1382, 1383 (9th Cir. 1985)). And, in deciding whether an agency's decision not to prepare an EIS, pursuant to NEPA, is appropriate, the "responsible agency must have 'reasonably concluded' that the project will have no significant adverse environmental consequences." (San Francisco v. United States, 615 F.2d 498, 500 (9th Cir. 1980)).

"Significant", "effects", and "human environment" are all defined in detail by the Council on Environmental Quality (CEQ) regulations implementing NEPA. (40 C.F.R. 1508.27, 1508.8, 1508.14).

In particular, "effects" include indirect effects, "related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems." (40 C.F.R. 1508(b)). In addition, effects include: "ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative."

NEPA requires that where "several actions have a cumulative ... environmental effect, this consequence must be considered in an EIS." (City of Tenakee Springs v. Clough, 915 F.2d 1308, 1312 (9th Cir. 1990)). "Cumulative impact" is the

impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions..., (40 C.F.R. 1508.7).

Federal Courts will review an agency decision not to prepare an EIS under the "Arbitrary and Capricious" standards of the Administrative Procedures Act, (APA; 5 U.S.C. 706(2), (A), (D)).

The County's proposed action is highly controversial. The cumulative adverse direct and indirect impacts include effects on safety, health, air quality, and noise levels, stemming from the project's duration, area disturbed and its location. Considered together, the proposed mining action constitutes a "major action" which has significant impacts on the environment.

The following are examples of the potential significant impacts:

The Lost Horse Quarry site was last used in a large-scale operation over thirty years ago, (loose fall rock was removed in 2002; see Plan of Operations, p.1). Approximately nine residences were located along the Lost Horse Road at that time - now there are approximately seventy-five residences.

There is no question whatsoever that the proposed industrial mining activity, (and it's reasonably foreseeable potential for a twenty year operational timeframe), will significantly and adversely impact their property values. The aesthetic values that brought the large increase in residences over the last thirty years will be seriously impaired by this ill-considered proposed action. The landowner's expectations and rights to the quiet enjoyment of their property will be significantly diminished and adversely impacted.

The cliffs above the proposed mining area are used year-round by the rock-climbing community. It is a popular and readily accessible area for this sport. Backcountry skiing, track skiing, cross-country skiing, snowshoeing, and snowmobiling are popular forms of winter recreation in the Lost Horse drainage. Camping, fishing, hiking, hunting, wildlife watching, horse riding, bicycle riding, and ORV riding are also very popular recreation pursuits in this area. The Lost Horse Observation Point is located slightly west and above the quarry area now proposed for extensive long-term mining.

Long-term industrial mining activities at the old Lost Horse quarry site will significantly and adversely impact the highly desirable qualities and characteristics of the Lost Horse drainage, and negatively impact the large numbers of the public that currently recreate there.

The Ravalli Republic Newspaper, in a 6/26/07 editorial questioned the wisdom of, or need for reopening the old quarry site. In part, it said, "When you look at the bigger picture, operating a quarry in this particular location isn't a good idea." "The [BNF] has long recognized the Lost Horse area for its recreational amenities." "A functioning quarry doesn't conform with the residential and recreational nature of the Lost Horse area, and it wouldn't support the actions the [FS] has taken in the area already. It's just a bad match."

The Plan of Operations states they propose to operate from October through April of each year for a decade or two (reasonably foreseeable). The Plan of Operation's timeframes will significantly and adversely impact hunters using the Lost Horse road systems and area during the Montana general rifle season in a drainage prized by, and heavily used by big game hunters.

The operational timeframes (October/April) stated in the Plan of Operations would be for about six months of each year, (five months if it did not include the general rifle season), extending over ten years.

Approached from another perspective, if the proposed operations were instead year-round, it would mean the Lost Horse Canyon and its road system would be significantly and adversely affected for the approximate equivalent of five years out of every ten. If the "reasonably foreseeable" additional ten years of mining operations is included; the adverse effects would be for an approximate equivalent of ten years out of every twenty years.

Twice each week day, school buses make six to eight stops along the Lost Horse road to pick up or drop off children. The buses also turn around at the end of the paved road portion.

The Plan of Operations (PO, p.8) states that "the mine would be only operated Monday through Friday and not on the weekends ...". The operational timeframe overlaps the school bus periods, yet the PO appears to be silent about this significant concern. For example, if the hauling period was about forty days total in each year, the quantities mentioned indicate there could be a heavy truck (loaded or empty) using the Lost Horse Road every eight to nine minutes. The potential frequency of large trucks (perhaps with pup trailers), both loaded and empty traveling the narrow, twisting Lost Horse Road under fall and winter conditions will significantly increase the possibility of severe accidents for school buses, children, recreationists, and residents.

The junction of Highway 93 and the Lost Horse Road raises another safety issue. The curves and hill of the Lost Horse Road at the junction area have restricted sight distances. Entering Highway 93 from the Lost Horse Road could present an increased hazard due to limited sight distances and the 93 hill, especially to the north.

Large trucks, half of which would be empty and half of which would be loaded, entering or leaving the intersection potentially increases the risk of significant accidents as well.

The County's Plan of Operations (PO) blithely claims that the long-term industrial mining operations "is not expected to adversely affect air quality", (p.9), and then claims mitigation efforts "would limit fugitive dust from material transport". The PO does not try to claim there will be no "fugitive dust" whatsoever, (nor could they realistically assert that).

Winter months always brings climatic inversions to the Bitterroot Valley. It is therefore highly likely that dust resulting from the mining, crushing, hauling, and surfacing operations will adversely impact the air quality within the Lost Horse drainage for extended periods. Likewise, diesel fume emissions resulting from the mining site and the truck hauling operations can have a significant adverse impact on the air quality in the Lost Horse Canyon. Residents and recreationists will be adversely affected. Fugitive dust and diesel emissions could have a adverse effect on the Lost Horse stream and it's fishery resources. Bull trout, a listed species that is present may be adversely impacted, in violation of the ESA.

The County's Plan of Operations discloses that "Noise levels would increase from present levels during mine operations due to operating earthmoving equipment, crushers and screens. Traffic and associated noise increase during operations ..." (PO, p.9)

The PO essentially dismisses any potential for long-term adverse impacts from increased noise levels. Residents would be significantly and adversely affected by the sounds of heavy trucks, both empty and full, traversing the Lost Horse Road. Operations at the mine site may be audible as well. Potentially, these adverse impacts could occur each week, Monday through Friday, 8:00 am though 5:00 pm, mid-October through mid-April, for a ten (or possibly 20) year

operational timeframe, (PO, pgs. 1, 9, 14). The PO (p.8) mentions "Public Nuisance"; the LHCC maintains that is exactly what it would be. Recreationists using the Lost Horse Canyon would also be adversely affected by the increased noise levels emanating from this proposed industrial mining operation for the same periods of time.

Considering the uniqueness of the Lost Horse Canyon and it's existing highly desirable in-place resources, attributes, and non-priced benefits, LHCC maintains that an Environmental Impact Statement (EIS) is required by law and agency Directives.

The LHCC is firmly opposed to any reopening of the old Lost Horse Quarry. We understand the NEPA is a procedural statute and cannot prevent a proposed action; it can only require the consequences are fully disclosed and addressed.

The LHCC respectfully requests that the Bitterroot National Forest Supervisor consider taking an affirmative action that would prevent the old quarry from ever again being mined for common materials. The ecological and recreational values of the Lost Horse Canyon are indisputable and need to be fully protected by the Forest Service.

Please send the undersigned persons any future NEPA documentation and/or decisions regarding the County's Lost Horse Mine Plan of Operations and the Forest Service's proposed Lost Horse Quarry CE/DM

Sincerely,

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